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A REPORT OF THE MONTANA ADMINISTRATIVE CODE COMMITTEE

December 1992

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A Report to the 53rd Legislature

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Montana Legislative Council

Montana Legislative Council
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Helena, Montana 59620
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Prepared by
John MacMaster, Staff Attorney

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MONTANA ADMINISTRATIVE CODE COMMITTEE

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PREFACE

The Committee was relatively inactive during the 1991-92 interim, especially compared to prior interims, largely because of the drastic decrease during 1991 and 1992 in the number of complaints from the public regarding existing and proposed rules and their application -- a decrease that began in early 1989. The Committee met only three times, and one meeting was a short teleconference to discuss procedure in a lawsuit against the Committee. The Committee does not intend to propose any legislation during the 1993 Legislative Session and did not produce any important memos, reports, or other documents. Therefore, in the interests of saving publication costs and to avoid repeating the material contained in prior committee reports to the Legislature, this report will be brief and readers will be referred to pertinent material in the prior report to the 52nd Legislature.

ACTIVITIES DURING THE 1991-92 INTERIM

The Committee met on May 31, 1991, to hear testimony regarding the Department of Fish, Wildlife, and Parks' camping regulations for Canyon Ferry Lake; a Board of Outfitters' rule allowing a waiver of the experience requirement for an outfitter; and the Board of Public Education's numerous MAPA violations in proposal and adoption notices.

On July 12, 1991, the Committee met to discuss what to do about a June 1991 lawsuit against the Committee by the Board of Public Education. The Committee voted to ask the Legislative Council legal staff to defend the suit, beginning with a motion that the court dismiss the suit. The court denied the motion and later proceeded to the merits of the suit, holding that a 1991 act of the Legislature that repealed a Board rule was invalid because it violated the Board's power under the Montana Constitution to generally supervise the public school system. Extensive briefs and other papers relating to the suit are on file with the Legislative Council and are available for research purposes.

On August 17, 1992, the Committee met and discussed a Board of Medical Examiners' rule defining the word "surgery" and Department of Fish, Wildlife, and Parks' rules regulating game farms.

COMMITTEE HISTORY AND FUNCTION, RULES REVIEW, COMMITTEE POWERS, AND MAPA REQUIREMENTS

As noted in the preface, in the interests of saving publication costs and to avoid repeating material contained in former committee reports to the Legislature, these subjects will not be discussed in this report. For materials discussing these matters, see the Committee's report to the 52nd Legislature.

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